

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KAYANN DWAYNE ATKINSON,
Petitioner,
v.
DEPARTMENT OF HOMELAND
SECURITY,
Respondent.

CASE NO. 2:25-cv-00484-JHC-GJL

ORDER ADDING PROPER
RESPONDENT, DIRECTING
SERVICE AND ANSWER, § 2241
PETITION

Petitioner Kayann Dwayne Atkinson filed a 28 U.S.C. § 2241 immigration habeas Petition and paid the required filing fee. Dkt. 1. Having reviewed the Petition, the Court **ORDERS** the following:

(1) Proper Respondent

Petitioner has only named Immigration and Customs Enforcement (“ICE”) as Respondent for this action. However, the proper respondent for § 2241 petitions is “the person who has custody over [the petitioner],” not simply the agency employing that individual. *See Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004) (citing 28 U.S.C. §§ 2242, 2243); *Doe v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024) (reversing grant of federal habeas relief where the immigration detainee’s direct custodian was not named as respondent). Petitioner represents that he is

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1 currently detained at the Northwest ICE Processing Center, so the proper respondent for this
2 action is the individual in charge of that facility. Accordingly, the Clerk of Court is directed to
3 **ADD** the Facility Administrator of the Northwest ICE Processing Center as a Respondent in this
4 action.

5 (2) Service

6 If not previously accomplished, electronic posting of this Order and Petitioner's § 2241
7 habeas Petition shall effect service upon the United States Attorney of the Petition and all
8 supporting documents. Service upon the United States Attorney is deemed to be service upon the
9 Respondents.

10 (3) Return

11 **Within 30 days of the date this Order is posted**, Respondents shall show cause why a
12 writ of habeas corpus should not be granted by filing a return as provided in 28 U.S.C. § 2243.
13 As a part of such return, Respondents shall submit a memorandum of authorities in support of
14 their position and should state whether an evidentiary hearing is necessary.

15 Respondents shall file the return with the Clerk of the Court and shall serve a copy upon
16 Petitioner. The return will be treated in accordance with LCR 7. Accordingly, on the face of the
17 Return, Respondents shall note it for consideration on the first business day occurring 28 days
18 after it is filed, and the Clerk shall note the Return accordingly. Petitioner may file and serve a
19 response not later than 21 days after the Return is filed and served, and Respondents may file and
20 serve a reply brief not later than the business day designated for consideration of the matter.

21 (4) Change in Custody Status

22 If Petitioner's custody status changes at any point during this litigation, **Respondents**
23 **shall file a status update with the Court as soon as possible and no later than 14 days after**
24 **the change.**

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1 Finally, the Clerk's Office is **DIRECTED** to send copies of this Order to Petitioner and
2 to the Honorable John H. Chun.

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4 Dated this 27th day of March, 2025.

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Grady J. Leupold
United States Magistrate Judge